

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DANNY THOMAS FOX,

Defendant.

CR 07-113-GF-BMM

CR 12-70-GF-BMM

ORDER

United States Magistrate Judge John Johnston conducted a joint revocation hearing in Causes CR 07-113-GF-BMM and CR 12-70-GF-BMM on August 2, 2016. Defendant admitted that he had violated the Preamble to the Standard Conditions of his supervised release by committing a new crime, that he had violated Standard Condition 7 of his supervised release by using methamphetamine, and that he had violated Special Condition 5 of his supervised release by failing to report for substance abuse treatment. Judge Johnston found the admissions sufficient to establish the supervised release violations. Judge Johnston entered his findings and recommendations on August 16, 2016.

Judge Johnson recommended that this Court revoke Defendant's supervised release in both cases and sentence the Defendant in each case to five months in custody followed by 27 months of supervised release. Judge Johnson also

recommended that the terms of custody and supervised release run concurrently. Judge Johnson further recommended that Defendant not be placed at the United States Penitentiary in Atwater, California.

No objections were filed by either party. Judge Johnston's findings and recommendations are therefore reviewed for clear error. *McDonnell Douglas Corp. Commodore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston's findings. Defendant admitted he had violated the Preamble to the Standard Conditions of supervised release, Standard Condition 7 and Special Condition 5. Defendant could be incarcerated for up to 60 months. Defendant could be ordered to remain on supervised release for 32 months less any custody time imposed in Cause CR 07-113-GF-BMM, and he could be ordered to remain on supervised release for 36 months less any custody time imposed in Cause CR 12-70-GF-BMM. The United States Sentencing Guidelines call for a term of imprisonment of 5 to 11 months. A sentence of 5 months in custody, followed by 27 months of supervised release is appropriate. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations

(Doc. 79) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 31st day of August, 2016.

A handwritten signature in blue ink, reading "Brian Morris". The signature is fluid and cursive, with the first name "Brian" and last name "Morris" clearly distinguishable. It is positioned above a horizontal line.

Brian Morris
United States District Court Judge